

IC 23-16-10

Chapter 10. Foreign Limited Partnerships

IC 23-16-10-1

Law governing

Sec. 1. (a) Subject to the Constitution of the State of Indiana:

(1) the laws of the state or other jurisdiction or country under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

(2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of Indiana.

(b) A foreign limited partnership is subject to IC 23-16-2-7. IC 23-16-3-5 and IC 23-16-3-8 apply to foreign limited partnerships as though they were domestic limited partnerships.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-2

Registration

Sec. 2. (a) Before transacting business in Indiana, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership must submit to the secretary of state an original copy executed by a general partner, together with a duplicate copy, of an application for registration as a foreign limited partnership, signed and sworn to under penalties for perjury by a general partner. The application must set forth the following:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in Indiana.

(2) The state, territory, possession, foreign country, or other jurisdiction where the limited partnership was organized, the date of its formation and a statement signed by a general partner that, as of the date of filing, the foreign limited partnership validly exists as a limited partnership under the laws of the jurisdiction of its organization.

(3) The nature of the business or purpose to be promoted in Indiana.

(4) The name and address of the registered agent for service of process required under section 4 of this chapter.

(5) The name and business address, residence address, or mailing address of each general partner.

(6) The date on which the foreign limited partnership first transacted, or intends to transact, business in Indiana.

(7) The address of the office at which is kept a list of the names and addresses of the limited partners and the capital contributions of each, together with a statement by the foreign limited partnership that it will keep those records until the foreign limited partnership's registration in Indiana is cancelled.

(b) The following activities, among others, do not constitute

transacting business within the meaning of subsection (a):

- (1) Maintaining, defending, or settling any proceeding.
- (2) Holding meetings of the partners or carrying on other activities concerning internal partnership affairs.
- (3) Maintaining bank accounts.
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositaries with respect to those securities.
- (5) Selling through independent contractors.
- (6) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside Indiana before they become contracts.
- (7) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property.
- (8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
- (9) Owning, without more, real or personal property.
- (10) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) of a course of repeated transactions of a like nature.
- (11) Transacting business in interstate commerce.

(c) Service of legal process upon any foreign limited partnership shall be made as provided in IC 23-16-2-3, except the secretary of state is the agent for service of process for a foreign limited partnership transacting business in Indiana without registration.

As added by P.L.147-1988, SEC.1. Amended by P.L.226-1989, SEC.25.

IC 23-16-10-3

Issuance of registration

Sec. 3. (a) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary of state shall do the following:

- (1) Endorse on the application the word "filed", and the date and time of the filing. This endorsement is conclusive evidence of the date and time of its filing in the absence of fraud.
- (2) File the original application.
- (3) Issue a certificate of registration to transact business in Indiana.

(b) The certificate of registration, together with a copy of the application, shall be returned to the person who filed the application or to that person's representative.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-4

Name; specified office and agent; change of agent; change of address of business office of agent; resignation of agent

Sec. 4. (a) Except as provided in subsection (b), a foreign limited partnership may register with the secretary of state under any name

(whether or not it is the name under which it is registered in the jurisdiction of its organization) that:

(1) includes the words "limited partnership" or the abbreviation "L.P."; and

(2) could be registered by a domestic limited partnership.

(b) A foreign limited partnership may apply to the secretary of state to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection (a). The secretary of state shall authorize use of the name applied for if:

(1) the other domestic or foreign limited partnership files its written consent to the use of its name, signed by any current general partner of the other limited partnership and verified subject to the penalties for perjury; or

(2) the applicant delivers to the secretary of state a certified copy of a final court judgment establishing the applicant's right to use the name applied for in Indiana.

(c) Each foreign limited partnership shall have and maintain:

(1) an office, which may be (but need not be) a place of its business in Indiana; and

(2) a registered agent whose business address is in Indiana for service of process on the foreign limited partnership, which may be:

(A) an individual resident of Indiana; or

(B) a domestic corporation or a foreign corporation authorized to transact business in Indiana.

(d) A foreign limited partnership may change its registered agent by delivering to the secretary of state for filing a statement containing the following:

(1) The name of the foreign limited partnership.

(2) The name of its current registered agent.

(3) The name and business address of the new registered agent and the new agent's consent to the appointment (either on the statement or attached to it).

(e) If a registered agent changes the address of the registered agent's business office, the registered agent must notify the foreign limited partnership in writing of the change, and sign and deliver to the secretary of state for filing a statement that complies with the requirements of subsection (d) and recites that the foreign limited partnership has been notified of the change.

(f) A registered agent may resign the agency appointment by signing and delivering to the secretary of state for filing the signed original and two (2) exact or conformed copies of a statement of resignation. After filing the statement, the secretary of state shall mail one (1) copy to the partnership at the office referred to in subsection (c)(1). The agency appointment is terminated on the thirty-first day after the date on which the statement was filed.

As added by P.L.147-1988, SEC.1.

Service of process on registered agent

Sec. 5. (a) A foreign limited partnership's registered agent is the foreign limited partnership's agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited partnership.

(b) This section does not prescribe the only means, or necessarily the required means, of serving a foreign limited partnership.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-6**Changes in and amendments to statements in application for registration**

Sec. 6. If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described in the application have changed, making the application false in any respect, the foreign limited partnership shall, within sixty (60) days after such a change, file in the office of the secretary of state a certificate, signed and sworn to under penalties for perjury by a general partner, correcting the statement.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-7**Cancellation of registration**

Sec. 7. A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to under penalties for perjury by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in Indiana.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-8**Transaction of business without registration**

Sec. 8. (a) A foreign limited partnership transacting business in Indiana may not maintain any action in any court of Indiana until it has registered in Indiana under this chapter and paid to the state all fees and penalties for the years during which it did business in Indiana without having registered.

(b) The failure of a foreign limited partnership to register in Indiana does not:

- (1) impair the validity of any contract or act of the foreign limited partnership;
- (2) impair the right of any other party to a contract with the foreign limited partnership to maintain any action on the contract; or
- (3) prevent the foreign limited partnership from defending any action in any court of Indiana.

(c) A limited partner of a foreign limited partnership is not liable

as a general partner of the foreign limited partnership solely by reason of having transacted business in Indiana without registration.

(d) A foreign limited partnership, by transacting business in Indiana without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in Indiana.

As added by P.L.147-1988, SEC.1.

IC 23-16-10-9

Action by attorney general

Sec. 9. The attorney general may bring an action to restrain a foreign limited partnership from transacting business in Indiana in violation of this article, and the circuit or superior court in any county in which the foreign limited partnership is transacting business without registration may enjoin any foreign limited partnership or agent thereof from doing business in Indiana if it has failed to register or if its registration has been procured on the basis of false or misleading representations.

As added by P.L.147-1988, SEC.1.